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**UNITED STATES SUES EIGHT METAL DEALERS AND
RECYCLERS FOR THE RELEASE OF MERCURY IN THE
VILLAGE OF RYE BROOK**

PREET BHARARA, the United States Attorney for the Southern District of New York, and JUDITH ENCK, the Regional Administrator of the U.S. Environmental Protection Agency ("EPA"), announced that the United States filed a civil complaint today in Manhattan federal court against eight defendants, seeking recovery of more than \$7 million in response costs that the EPA has incurred since April 2004 in connection with the clean-up of mercury at the Port Refinery Superfund Site (the "Site") in the Village of Rye Brook in Westchester County.

The Complaint alleges that the defendants -- Jacob Goldberg & Son, Inc.; Kearny Scrap Metal Company; Leonard Sherman d/b/a L&B Metals; L&B Metals, Inc.; Levin & Sons, Inc.; Vincent A. Pace Scrap Metals, Inc.; PSC Metals, Inc.; and PSC Metals-New York, LLC (collectively, the "Defendants") -- are liable to the United States for the EPA's response costs under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the Superfund statute, which was passed by Congress to help accomplish the cleanup of hazardous waste sites around the country and to require those responsible for pollution to pay the costs of cleanup, because they arranged for treatment or disposal of mercury, a CERCLA hazardous substance, at the Site.

According to the Complaint filed in Manhattan federal court:

The Defendants were involved in the metal industry as dealers, producers or recyclers, and sold scrap mercury to Port Refinery, Inc. ("Port Refinery"), to be refined at the Site. Scrap mercury they sold had no commercial use until it was refined and purified, and the process of refining scrap mercury inevitably resulted in mercury-containing wastes. Between the 1970s and 1991, Port Refinery was engaged in the business of refining scrap mercury and reselling the refined, commercial-grade mercury for use in dentistry and electronics. During the course of refining and purifying scrap mercury, Port Refinery caused mercury or wastes containing mercury to be spilled or discarded, or otherwise released at the Site.

From 1991 to 1996, the EPA conducted an initial clean-up of mercury at the Site. In November 1996, the United States sued the owners of Port Refinery and other responsible parties, including the Defendants or their predecessors, to recover under CERCLA the costs that the EPA incurred for the initial clean-up of the Site. The United States settled the 1996 CERCLA action and received more than \$2.4 million. In the settlement agreements signed by Defendants or their predecessors, the United States specifically reserved its right to seek additional clean-up costs incurred at the Site subsequent to those settlements.

In April 2004, residents in a private housing complex adjacent to the Port Refinery site discovered mercury alongside a walkway. The EPA immediately began an emergency action to respond to this new mercury release. Since April 2004, the EPA has undertaken a variety of investigative and removal activities at the Site, including: (i) testing air, water and soil at the Site for mercury contamination; (ii) excavating and disposing of more than 9,300 tons of mercury-contaminated soil from the Site; (iii) installing air and water filtration systems for residences at the Site; (iv) cleaning up the underground pipes; and (v) demolishing a residence that had significant mercury contamination.

The Defendants are liable for the costs that the EPA has incurred after April 2004, because they "arrange[d] for treatment or disposal" of mercury at the Site. The Complaint seeks \$7,062,969 in response costs that the EPA has incurred to date in connection with the recent response actions. The Complaint also seeks a judgment declaring that Defendants are

liable for any future costs to be incurred by the EPA in connection with the Site.

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Mr. BHARARA praised the investigative efforts of the EPA and thanked the Department of Justice's Environment and Natural Resources Division.

United States Attorney PREET BHARARA stated: "This case underscores our Office's resolve to protect the health and safety of the public through vigorous enforcement of our environmental laws. These defendants are responsible for significant and dangerous mercury pollution in a residential area in the Village of Rye Brook. We will see to it that they foot the bill to clean up the mess."

EPA Regional Administrator JUDITH ENCK said: "Under Superfund, whether cleanup work is ongoing or has been completed, we hold parties responsible for damaging the environment also responsible for the costs of cleanups. This recent case is a testament to EPA's hard work to uphold a basic principle of the Superfund process -- the polluter pays."

Assistant United States Attorney LI YU is in charge of the case.

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